San Diego City Attorney
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NEWS RELEASE

FOR IMMEDIATE RELEASE: November 17, 2007

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WHERE'S THE OUTRAGE? RETIREMENT BOARD STICKS IT TO SAN DIEGO TAXPAYERS TO THE TUNE OF $146 MILLION

RETIREMENT BOARD'S FORMAL VOTE HAS TAXPAYERS PAYING FOR UNDER-PRICED RETIREMENT YEARS BOUGHT BY CITY EMPLOYEES

San Diego, CA—Calling it irresponsible, reckless and unlawful, City Attorney Michael Aguirre protested today action by the City's unelected Retirement Board to stick taxpayers with a $146 million bill to pay for a controversial retirement benefit purchased by thousands of city employees at a discounted price.

The expanded Purchase of Service Credits (PSC) program, created in 1996, was intended to be cost-neutral to the City but the pricing formula set by the Retirement Board was too low and created the $146 million liability. The PSC program enabled all City employees to purchase up to five years of service credits – without actually working those years.

"Bonnie & Clyde would have been envious. They had to use a gun," said City Attorney Michael Aguirre. "And let's not forget that the Mayor wants to bring in an outside attorney to handle this matter. Could that be to drive the get-away car? "

According to Aguirre, the Mayor's actions lack credibility. On September 24, 2007, the Mayor asked the City Attorney to provide him with unilateral options the City could take to reverse the $146 million liability. The Mayor's request stemmed from the San Diego City Employees' Retirement System (SDCERS) admission that 15% of the City's $1 billion pension liability or $146 million was a result of the PSC program.

The City Attorney responded by drafting an ordinance that would correct the problem. However, the Mayor and the City Council President have ignored repeated requests to have the matter heard by the City Council.

In his memorandum, issued October 5, 2007, the City Attorney laid out the legal pathway the City Council could follow to enact pension reforms that would save the City half a billion. The City Attorney's Office also addressed the PSC issue when it released Interim Report No. 12 on September 18, 2006 entitled *Report on Scheme to Price San Diego City Employees' Retirement System Pension Service Credits Below Cost in Violation of California Law*.

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"Taxpayers should not have to pay for the mistakes of our elected and retirement board officials who knowingly conspired to make these deals and abdicated their fiduciary duty to the system," said City Attorney Aguirre. "The time has come to retire the Retirement Board. Yesterday's action by the Retirement Board now requires the City Council to take immediate action to reverse this misappropriation of public monies."

Aguirre also renewed his call for Mayor Sanders to replace the Pension Board members with a new independent Board, comprised of 7 members who have no financial interest in the Pension System. That was the recommendation made in 2003 by the Pension Reform Committee.

BACKGROUND:

The PSC program was originally created by the City to benefit members of the military who left City service to serve. For instance, if a member of the military was called to active duty for two years, that employee could purchase the two years missed upon returning to the City.

The program was expanded in 1996, as a part of the Manager's Proposal I (MP1) deal between the City and the SDCERS. The new program expanded the PSC program and enabled all City employees to purchase up to five years of service credits – without actually working those years. The program was incorporated into the City of San Diego's Municipal Code.

According to MP I, the program was supposed to be cost neutral for the City and the years of service were supposed to be priced so the employee would pay the full price of the benefit, both the employee's cost and the City's cost.

However, on March 21, 1997, the SDCERS Board priced the years far below what it would cost the City to provide the benefit. Regardless of an employee's salary, years of service, or age--all factors that should have been considered in structuring the pricing formula--General and Legislative Members were charged 15 percent of current pay per year purchased. The corresponding cost for Safety Members was 26 percent of current pay. Under the pricing formula, a general member earning $100,000 per year could buy a year of pension credits for $15,000. The cost would be $26,000 per year purchased for a safety employee.

The program became wildly popular as City employees sought to cash in on the benefit. It was not long until SDCERS officials realized that the discounted pricing formula was creating a debt to the pension system. However, even after discovering this fact, the SDCERS Board did not revise the pricing formula for several years.

Both the SDCERS actuary and its Assistant Administrator warned the SDCERS Board that the pricing formula needed to be revised upward if the program was to be cost-neutral to the City. Finally, on August 15, 2003 the SDCERS Board voted to raise the per year cost of the PSC program to 27% for General Members, 37% for Safety Members, and 50% for Legislative Members. However, the SDCERS Board allowed employees who submitted their application before November 1, 2003, to purchase service credits

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at the lower, former price. As a result, hundreds of additional years of service were purchased at the discounted rate and added to the pension system's debt.

During labor negotiations in 2005, it was agreed that the program would be closed to new City employees hired after 1 July 2005.

To view Interim Report No. 12, *Report on Scheme to Price San Diego City Employees' Retirement System Pension Service Credits Below Cost in Violation of California Law*, visit www.sandiegocityatttorney.org, click City Attorney Interim Reports.

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